

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 15890 of Robert and Dyanne Branand, pursuant to 11 DCMR 3107.2, for a variance to allow an addition to an existing nonconforming structure that now exceeds the allowable lot occupancy requirements and will create a new nonconformity by exceeding the floor area ratio limitation [Paragraph 2001.3(a) and (c)], a variance from the allowable percentage of lot occupancy requirements (Subsection 403.2), and a variance from the floor area ratio requirements (Subsection 402.4) for an addition to a nonconforming single-family dwelling in a CAP/R-4 District at premises 412 South Capitol Street, S.E. (Square 693, Lot 808).

HEARING DATES: January 19 and January 26, 1994  
DECISION DATES: February 2, 1994

ORDER

SUMMARY OF EVIDENCE OF RECORD:

1. The property which is the subject of this application is located at 412 South Capitol Street, S.E., on the east side of the street between D and Canal Street, S.E. The site is zoned R-4.

2. The site comprises 1,500 square feet of land area and is developed with a two-story plus basement, single-family row dwelling. The site abuts a 25-foot wide public alley to the rear. The site is rectangularly shaped and has a 20-foot wide frontage on South Capitol Street.

3. The existing structure is currently vacant. The applicants are proposing to construct an addition at the rear of the existing structure.

4. The subject site is located in a CAP/R-4 zone district. The R-4 zone district permits matter of right development of residential uses, including detached, semi-detached, and row single-family dwellings and flats with a minimum lot area of 1,800 square feet, a minimum lot width of 18 feet, a maximum lot occupancy of 60 percent, and a maximum height of three stories/40 feet. A minimum rear yard depth of 20 feet is required in the R-4 District.

5. The existing structure has a building footprint of 905.88 square feet or 60.4 percent. The proposed addition would increase the lot occupancy by 194.12 square feet for a total footprint of 1,100 square feet or 73.3 percent. This would exceed the permitted lot occupancy of 900 square feet or 60 percent by 200 square feet (22.2 percent).

6. The applicants' architect testified that the subject site is located just three blocks from the U.S. Capitol in an area that is occupied predominantly by office buildings that belong to the Federal government. The southern portion of the property is situated very near Interstate Highway 395 and train tracks that pass through the area, a branch of which comes directly behind the house and across the subject lot before it goes underground. The presence of the railroad tracks and exhaust from the tunnel create a practical difficulty for the user of the property.

7. The applicants' architect also testified that the design of the house has been submitted and approved, in concept, by the Fine Arts Commission and the Historic Preservation Review Board.

8. The applicants stated that the location of the subject property is unique in that it is one of less than 15 residential structures in the area situated between the Capitol and the freeway. The frequency of the trains traveling on the tracks in the back of the house has been increased and the rear yards of the houses are rendered unusable because of the noise and the smoke that is regularly dispelled. As a result, the applicants believe that they would have to utilize good sound insulation methods and would have to use their inside space with greater efficiency than would otherwise be required. In their opinion, outdoor entertaining, and dining cannot be contemplated.

9. One of the applicants' next door neighbors, testified that the subject structure has been deteriorating over a number of years and that as it stands currently, could potentially be a health hazard and a concern to his property next door. He further testified that it would be a much greater benefit to the neighborhood if the property is renovated. The neighbor indicated that he and the other neighbors are in favor of the renovations proposed by the applicants and that they would like to see them carried out as quickly as possible. The neighbor further testified that he would not be affected by the proposed closing of the court on the applicants' property. He reasoned that the closing of the court would help because it would insulate his property further from the train tracks. The neighbor further stated that he does not think that the proposed court would have a major impact in terms of light and air because there is a small court on his property that allows light inside, and that there are windows in the back.

10. By report dated January 11, 1994 and through testimony at the hearing, the Office of Planning (OP), recommended denial of the application. The OP stated that it is of the opinion that the applicants have not met the burden of proof relative to the zoning relief being sought in this case. A practical difficulty does not exist. There is no inherent uniqueness in the property that would justify the zoning relief requested. If granted, the construction of the proposed rear addition would substantially increase the

structural density on the property and would adversely impact neighboring properties in terms of a decrease in the provision of adequate light and air. The Office of Planning believes that the zoning relief being sought in this case is excessive and, as a result, would adversely impair the intent, purpose, and integrity of the CAP/R-4 zone district regulations.

11. The Advisory Neighborhood Commission (ANC) 6B was not represented at the hearing. However, the applicants' architect presented a copy of a letter from the ANC which was forwarded to her. The letter which is dated January 12, 1994 and addressed to the Board states that the ANC, at a recent meeting, had voted to support the application. The Board accepted the letter into the record and left the record open to receive the original letter of the ANC.

12. No one appeared to testify in support of the application.

13. One neighbor testified in opposition to the application.

14. By a letter dated January 10, 1994, the Capitol Hill Restoration Society stated that its Zoning Committee voted unanimously to support the application.

15. At the end of the public hearing, the Board left the record open to receive letters from HPRB, the ANC 6B, the Commission of Fine Arts, and to receive the applicants' findings. All of these documents were submitted to the record of the case by the applicants' architect on January 28, 1994.

#### FINDINGS OF FACT:

Based on the evidence of record, the Board finds the following:

1. There are other alternatives which are in compliance with the Zoning Regulations and would allow the applicants to screen the property from the noise and fumes of the trains.
2. The subject lot is one of the largest in the square in which it is located, as well, the dwelling is larger than many of the other dwellings in the immediate area and can be renovated without zoning relief.

#### CONCLUSIONS OF LAW AND OPINION:

Based on the evidence of record, the Board concludes that the applicants are seeking variances from the allowable percentage of lot occupancy requirements, the floor area ratio requirements, and

a variance to allow an addition to an existing nonconforming structure that now exceeds the allowable lot occupancy requirements that will create a new nonconformity by exceeding the floor area ratio limitation.

Granting such a variance, requires a showing through substantial evidence of a practical difficulty upon the owner arising out of some unique or exceptional condition of the property such as, exceptional narrowness, shallowness, shape or topographical condition. In addition, the Board must find that granting the application, will not be of substantial detriment to the public good and will not substantially impair the intent, purpose, and integrity of the zone plan.

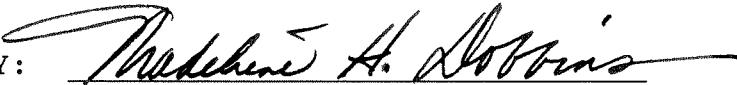
The Board concludes that the applicants have not met this burden of proof. The Board is of the opinion that there is no inherent uniqueness in the property that would justify the requested variances. The Board believes that the zoning relief sought in this case would be excessive and would impair the intent purpose and integrity of the zone plan for the CAP/R-4 District.

The Board has accorded the ANC the "great weight" to which it is entitled.

In accordance with the above analysis, the Board **ORDERS** that this application is hereby **DENIED**.

VOTE: 4-0 (Craig Ellis, George Evans, Angel F. Clarens to deny; Laura M. Richards to deny by absentee vote).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:   
MADELIENE H. DOBBINS  
Director

FINAL DATE OF ORDER: NOV 20 1995

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 15890

As Director of the Board of Zoning Adjustment, I hereby  
certify and attest to the fact that on NOV 20 1995  
a copy of the order entered on that date in this matter was mailed  
postage prepaid to each party who appeared and participated in the  
public hearing concerning this matter, and who is listed below:

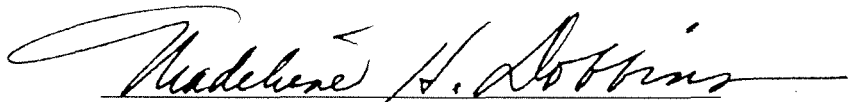
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MADELIENE H. DOBBINS  
Director

DATE: NOV 20 1995